



The Bar Tribunals & Adjudication Service

The Council of the Inns of Court

Report of Finding and Sanction

Case reference: PC 2019/0357/D5

Anthony Daniel Bennett

The Director-General of the Bar Standards Board

The Chair of the Bar Standards Board

The Treasurer of the Honourable Society of Gray's Inn

Disciplinary Tribunal

Anthony Daniel Bennett

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 20 June 2022, I sat as Chairman of a Disciplinary Tribunal on 5 September 2022 to hear and determine five charges of professional misconduct contrary to the Bar Standards Board Handbook against Anthony Daniel Bennett, barrister of the Honourable Society of Gray's Inn.

Panel Members

2. The other members of the Tribunal were:

Tracy Stephenson [Lay Member]

Paul Robb [Lay Member]

Ashley Serr [Barrister Member]

Darren Snow [Barrister Member]

Charges

3. The following amended charge was admitted.

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Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty 5 of the Code of Conduct of the Bar of England and Wales (9th Edition), Bar Standards Board Handbook (Version 3.3-4.0).

Particulars of Offence

Anthony Daniel Bennett, a barrister, behaved in a way which was likely to diminish the trust and confidence placed in him and the profession, contrary to Core Duty 5, in that, between 27 September 2018 and 20 June 2019 (inclusive) Mr Bennett allowed to be tweeted, inappropriate and offensive tweets towards AW, another barrister, from the twitter account '@arrytuttle'.

The tweets include:

- i. "... Adam Wagner is a lying propagandist who brings shame on our entire community with his smears" - 27 September 2018;
- ii. "All Adam Wagner's antisemitism (sic) stories are fraudulent. And he knows it." - 27 September 2018;
- iii. "Yes. Adam Wagner thinks Stephen Marks is the wrong type of Jew. Remind me, who is supposed to be the antisemite here?" - 17 October 2018;
- iv. "Every day platformed jews from the self-appointed 'mainstream' direct hatred at leftist Jews. Every day they misrepresented facts. Every day they pretend that leftist jews are antisemitic. All this for factional political gain. It's the vilest and sickest trait in modern politics" - 23 October 2018 (in response to a tweet by Adam Wagner);
- v. "Am guessing it's two of [a barrister], Adam Wagner or [another barrister]. They are an awful threesome." - 24 January 2019 (in response to a tweet saying there are two barristers on twitter who are "thick as pigshit, both bigots, both amazingly credulous");
- vi. "I think we can conclude from this thread that Adam Wagner hates leftist jews, is determined to target leftist jews as "antisemites" and demands that anyone else cease associating with leftist jews, or be deemed an "antisemite" by association, Adam has gone full fash propaganda" - 11 February 2019;

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vii. "Also, Adam Wagner is an absolute danger and a hater of leftist jews. Would not go near him with a barge pole." - 22 February 2019.

Parties Present and Representation

4. The Respondent was present and was represented by Marc Beaumont. The Bar Standards Board ("BSB") was represented by James Stuart.

Preliminary Matters

There was an application to amend the charge sheet as previously advised on the 17 August 2022 prior to the hearing. Namely, that there were originally 5 charges being pursued by the Bar Standards Board against the respondent. Recently, the Mr Bennett had indicated that he intended to admit the one [amended] charge and the BSB indicated that, on that basis, it would offer no evidence on the remaining 4 charges and the application to the Tribunal was to dismiss those charges. The Tribunal agreed to the amended charge sheet and dismissed the remaining 4 charges.

The question of anonymisation of the complainant's name contained within the charge sheet was raised and the Tribunal were referred to the case of LU v SRA which clarified the importance of open justice and anonymisation should not be the default position. The complainant had not requested to be anonymised and this was confirmed by the BSB with him by telephone on the morning of the hearing. The Tribunal agreed that it was not necessary to anonymise his name and the proceedings named him as such.

Pleas

Mr Bennett admitted the amended charge.

Evidence

Mr Stewart presented the case on behalf of the BSB. Mr Beaumont addressed the Tribunal on behalf of the respondent in mitigation.

Findings

The charge being admitted, the Tribunal found it proved.

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Sanction and Reasons

The unanimous decision of the Tribunal was that Mr Bennett should be reprimanded by the Tribunal and he should pay a fine of £500 to the Bar Standards Board within 28 days or a time otherwise agreed with the BSB. The BSB made no application for costs.

The respondent, Mr Bennett, has pleaded guilty to one charge of Professional Misconduct. The allegation is that between 27th September 2018 and 20th June 2019 he allowed to be tweeted inappropriate and offensive tweets directed at another named barrister, Mr. Wagner. The charge identifies seven such tweets, the last of which was dated 22nd February 2019 rather than 20th June 2019 but, as we have now been able to clarify, nothing turns on that.

As a result of his plea of guilty and the Bar Standards Board's acceptance of the basis of the plea, it has also been agreed that other charges can be dismissed (as they now have been) and that Mr. Wagner has not been required to give oral evidence.

The circumstances giving rise to the charge have been set out in the written basis of the plea. It is therefore now accepted that Mr Bennett himself was not the author of the offending tweets. The author must have been one of the undisclosed number of people who, along with Mr Bennett, were parties to the Twitter account on which those tweets appeared.

Mr Bennett has admitted that he allowed them to be tweeted in that he was party to that account and was aware that they were being posted and that he could, and should, have stopped them appearing. He therefore failed to prevent those tweets as he could have done, and he failed to dissociate himself from them when he could have done. The Tribunal are therefore satisfied that he failed to take any such positive action as might have been required or expected.

These anonymous tweets were seriously and personally offensive in content. It has not been possible to assess the extent to which they were disseminated. The Tribunal accepts that it appears that at least some of the wider distribution of the tweets was caused by retweeting by Mr Wagner himself.

Mr Wagner has described the effect on him of what appeared in the tweets and the consequences of them. He was caused considerable anxiety and unwelcome attention, particularly as he was at the time a relatively new member of the same chambers as Mr Bennett.

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Mr Bennett has explained his failure with regard to these tweets; their content, in so far as they are concerned with anti-Semitism, reflected his own strongly held views. He accepts that the offensive and abusive terms of the tweets crossed the line for acceptable communication and that his failure to act was the result of a significant loss of perspective on his part at the relevant time.

In the light of his admitted culpability and the harm suffered, the Tribunal have considered the proportionate sanctions applicable in this case having regard to the current Sanctions Guidance. The Tribunal are satisfied that the 2022 Guidance applies and that this case falls within Part J of that Guidance. The aggravating features do not require repetition.

The mitigating factors are as follows: first, that the offending tweets appeared more than three years ago; secondly, Mr Bennett resigned from chambers without much delay; thirdly, Mr. Bennett is an experienced and well regarded practitioner for whom the Tribunal have had impressive references; fourthly, he has no previous or subsequent disciplinary record. In addition, the Tribunal accept that these proceedings have taken a heavy toll on Mr Bennett in various ways both personally and professionally.

The Tribunal consider that the offence concerned is serious enough to justify both a reprimand and a fine.

The unanimous decision of the Tribunal is as follows: first, Mr. Bennett is hereby reprimanded by the Tribunal; secondly, the Tribunal imposes a fine of £500 to be paid within 28 days or as may otherwise be agreed with the Bar Standards Board.

Dated: 7 September 2022

His Honour James Meston QC
Chairman of the Tribunal

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